



U.S. Citizenship
and Immigration
Services

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MAY 05 2004

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Petitioner:

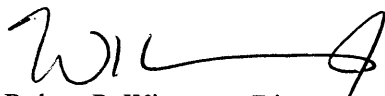
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to
Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center initially approved the employment-based visa petition. Upon subsequent review, the director issued a Notice of Intent to Revoke and ultimately revoked approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a corporation organized in the State of California in April 1996. It is engaged in international trade. It seeks to employ the beneficiary as its vice-president. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager.

The director initially approved the petition. Upon subsequent review of the record, the director issued a Notice of Intent to Revoke. The director determined that: (1) the petitioner had not established that the beneficiary would be employed in a managerial or executive capacity for the United States entity; and, (2) the petitioner had not established a qualifying relationship with the beneficiary's foreign employer. Citizenship and Immigration Services (CIS) receiving no rebuttal to the issues raised in the Notice of Intent to Revoke, revoked approval on May 27, 2003.

The regulation at 8 C.F.R. §103.3(a)(1)(v) states, in pertinent part: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B Notice of Appeal, filed on June 9, 2003, counsel for the beneficiary¹ indicated that a brief and/or evidence would be submitted within 30 days. To date, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

The statement on the appeal form reads:

The Service Center Director erred as a matter of law and facts when he found the petitioner failed to establish that the beneficiary is employed as an executive or manager under Sections 203(b)(1) and 101(a)(44) of the Immigration and Nationality Act. The evidence in the record shows that the beneficiary has significant authority over generalized policy of the petitioner company. Furthermore, the evidence also demonstrates that the beneficiary's duties at the petitioner company are all at managerial or executive level.

The statement by beneficiary's counsel does not identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal. In addition, the beneficiary is not the affected party in these

¹ The record contains two Forms G-28, Notice of Entry of Appearance of Attorney or Representative, each appointing different attorneys. The latest filed Form G-28 appointing the attorney who authored the Form I-290B, is signed by the beneficiary and is on behalf of the beneficiary. However, the beneficiary is not the affected party in these proceedings. See section 103.3(a)(1)(iii)(B) of the Act. The petitioner's president signed the Form G-28 submitted with the petition, dated March 8, 2001. The record does not contain evidence that the petitioner's attorney of record submitted an appeal of the revocation decision.

proceedings and has no standing to appeal a decision revoking approval of the petition. Section 103.3(a)(1)(iii)(B) defines an affected party in these proceedings as: “. . . affected party (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.” Thus, the regulations mandate the summary dismissal of the appeal.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.